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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,008

09/07/2004

Neil Frank Dudley

9303-36

8786

20792 7590 12/18/2006  
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EXAMINER

THOMPSON, GREGORY D

ART UNIT

PAPER NUMBER

2835

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/18/2006

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/507,008

Applicant(s)

DUDLEY, NEIL FRANK

Examiner

Gregory D. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on response filed on 10/16/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,6-17 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-17 and 21-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/7/04</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. All pending claims 1-3,6-17 and 21-28 will now be examined on merits per remarks and amendment to the claims filed 10/16/06.
2. The drawings are objected to because Fig.6 requires at least one reference number. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 24,25,34 just to point out some examples. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should

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include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Claims 1,6,9,10,21 are objected to because of the following informalities: Lines 1-4 and Lines 8,10,4,6,7;respectively, language of "meter,instrument,instruments,the instrument" not consistent language. Appropriate correction is required.

5. Claim 2 is objected to because of the following informalities: Language of "the interchangeable closure member" not consistent language. Appropriate correction is required.

6. Claims 6-8,11-12,16,17 are objected to because of the following informalities: language of "connector rail,DIN rail connector,A DIN rail" not consistent language. Appropriate correction is required.

7. Claims 13,14,15,17 are objected to because of the following informalities: language of "the closure" not consistent language. Appropriate correction is required.

8. Claim 24 is objected to because of the following informalities: Language of " the end enclosure and first configuration" not consistent language. Appropriate correction is required.

9. Above are just a few examples of inconsistent language. All claims should be reviewed for inconsistent language.

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10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 1,21-22,25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1,21-22,25 are confusing/indefinite for it is not clear how the connection means can be associated with the display panel 22 to provide any interchangeability between the housing 16 and the panel 22. Panel 22 has no structure to provide any interchangeability with housing 16. If so provide reference numbers for this structure.

12. Above is just a sample of a 112 problem with some of the claims. All claims should reviewed for 112 problems and corrected.

13. The claims will be rejected as best possible from the numerous problems listed above.

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1-3,6-17,21-28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Von Arx (5,602,363).

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Von Arx teaches modular housing 10 that can enclose any instrument such as a meter instrument (meter instrument not positively claimed) with an open end and connection means (broad term) interlocking resilient clip means 61a,61b for interchange connection (broad term) with a closure member 14 (mounting plate, end plate, surface mounting plate) that can be mounted on a surface by elements 108,98 or on a DIN rail 12. The clear panel is 62. In claims 1,6 it appears that the only structure positively claimed is the housing and connection means. All other structure is functionally recited. The second connection means also includes the channel 68 and latch means 92,92a,94,94a and so forth. The second connection means would also be the screw fastening means that pass through elements 98,108 to mount to the surface. The first connection means (broad term) of closure 14 for engagement (broad term) with the opening would be the up standing walls 70,74 that come into contact with the periphery of the opening as seen in Fig. 7.

Regarding, claim 14 the clip arrangement 61a,61b is part of (broad term) of the first means with claim 14 depending on claim 10. Regarding claim 15, the first means being walls 70,74 and the second means being the channel 68, means 92,92a,94,94a located on opposite sides of 14. Regarding claim 21, 22, 23,25 transparent display is 62, housing with open end is 10, plate 14 and the connection means would be 61a,61b. The metering instrument (broad term) can be the control device (energy use) since the device meters or controls some type of device or energy to that device. The readable display is shown in Fig. 3 (32-1382 degrees C). Regarding claim 27, a third plate 14

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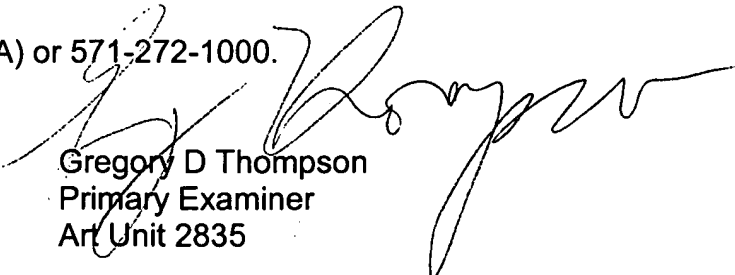
could be on site to replace the second plate 14 if the second place 14 became damaged and had to be replace to allow proper mounting.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Simbeck et Al teaches a din with a meter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory D. Thompson whose telephone number is (571) 272-2045. The examiner can normally be reached on M-Thr..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on (571) 272-2800, ext. 35. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gregory D Thompson  
Primary Examiner  
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